

Brookline, New Hampshire
Article XV, Brookline Aquifer Protection Ordinance
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Zoning Ordinance

ARTICLE XV

BROOKLINE AQUIFER PROTECTION ORDINANCE Section I. Purpose and Intent

The town of Brookline adopts this Ordinance for the promotion of the health, safety, and general welfare of its residents by protecting the ground water resources of the Town from adverse development or land use practices generally related to commercial/industrial land use (such as but not limited to the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products) that might reduce the quality of water that is now--and in the future will be--available for use by municipalities, individuals and industries.

Section II. District Boundaries

The extent of the Aquifer Protection District shall be the outermost edge of the surficial extent of all aquifer deposits presently designated as stratified drift, and shaded light blue, as supported by information included in the U.S.G.S.(United States Geological Survey) Aquifer Delineation study entitled "Geohydrologic Appraisal of the Nashua Area, Southcentral New Hampshire, by K. W. Toppin, (1986)" or most recent studies. The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) and permitted uses shall apply.

Section III. Permitted Uses

Permitted uses, with the exception of those expressly prohibited in Section IV, shall be the same as those districts within which the aquifer district lies.

- a) Industrial or commercial uses which discharge no (nonhuman) waste on site (human wastes only in approved septic systems);
- b) Residential and Agricultural Development;
- c) Other Uses:
 - 1) Activities designed for conservation of soil, water, plants, and wildlife.
 - 2) Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.

Section IV. Prohibited Uses

The following uses are prohibited:

- a) Outside storage and disposal of solid waste, other than above ground brush and stump dumps (the base of such dumps shall be at least 6 (six) feet above the E.S.H.W.T. (Estimated Seasonal High Water Table);
- b) Subsurface storage of petroleum or related products (including gasoline) and the subsurface transmission of petroleum or related products through pipelines;
- c) The disposal of liquid or leachable wastes that are non-human wastes;
- d) The covering of more than 30% of the lot in the Residential Zone, and 60% of the lot in the Commercial Industrial Zone by impervious surfaces (ie material on the ground that does not allow surface water to penetrate into the soil);
- e) Storage of road salt unless covered and on an impervious surface;
- f) Excavation of sand or gravel, except those conducted in accordance with an approved Earth removal Permit issued pursuant to Article IX of the Town of Brookline Zoning Ordinance (excavation shall be permitted to within 6 (six] feet of the ESHWT), and excavations permitted for fire ponds;
- g) Storage/processing/disposal of hazardous waste;
- h) Dumping of snow containing de-icing chemicals brought in from other parts of town(s)

Section V. Non-conforming Uses

A non-conforming use may be continued and may be replaced or repaired, with the approval of the Planning Board, if the Board believes that the continuing use will not be more detrimental to the protected areas. A non-conforming use which has been discontinued for 12 months may not be resumed.

Section VI. Administration

All subdivision proposals and other proposed new developments within the Aquifer Conservation District shall be reviewed by the Planning Board and shall conform to the provisions of this ordinance and further shall assure that:

- a) All such proposals are consistent with the need to protect the groundwater of the Town of Brookline and adjacent communities;
- b) For the purpose of minimizing or eliminating leakage or discharges-from septic systems into the groundwater, all systems shall be at least 4 (four) feet above the estimated seasonal high water table;
- c) On site waste disposal systems are located so as to avoid or minimize groundwater contamination;
- d) Streets, roads, and parking areas are constructed so that direct application of road salt is not required for winter safety, and so that runoff from such uses is channeled to avoid or minimize groundwater contamination;
- e) Any increase in surface storm water generated by development is kept on-site and handled in such a manner as to allow the water to infiltrate into the ground before leaving the site{

f) Written approval of the State of New Hampshire Water Supply and Pollution Control Division has been obtained.

Section VII. Conservation Commission Review

The Conservation Commission shall review, within a reasonable time (not to exceed 60 days from date of submittal of plan to the Planning Board), each plan for development in the Aquifer Conservation District and shall make a recommendation to the Planning Board to approve, approve with conditions and/or recommendations, or disapprove the plan, with reasons for disapproval.

Section VIII. Incorrectly Delineated Zones

Where the bounds, as delineated, are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s), the Town may engage a professional geologist or soil scientist to determine more accurately the location and extent of an aquifer, and may charge the owner(s) for all or part of the cost of the investigation. The delineation can be modified by the Planning board upon receipt of findings of the detailed on-site survey techniques.

Section IX. Enforcement

These regulations shall be enforced by the Board of Selectmen or its duly authorized representatives.

Section X. Validity and Conflict With Other Ordinances

A. Validity:

Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance

B. Conflict With Other Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law regulation or by-law. Where this Ordinance imposes a higher standard for the promotion and protection of health, safety and welfare, the provisions of this Ordinance shall prevail.

Section XI. Definitions

Aquifer: Geologic formation composed of stratified sand and gravel that contains a potential to yield potable water.

Ground Water: All the water found beneath the surface of the ground. In this Ordinance the term refers to the slowly moving subsurface water present in aquifer recharge areas.

Hazardous

Waste: Materials or liquids that pose a threat to the environment, whether in use, storage, or transit, including without exception hazardous wastes identified and listed in accordance with the State of New Hampshire Dept. of Environmental Services Hazardous Waste Rules, dated August 1988, Section HE-P-1905.03, or latest update.

Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

Non-Conforming Use: Any building or land lawfully occupied by a use at the time of passage of the Ordinance or amendment thereto which does not conform after the passage of this Ordinance or amendment thereto with the regulations of the district in which it is situated.

Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this Ordinance, buildings are structures.

Solid Wastes: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.